

# Mine Safety and Health

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## The Federal Mine Safety and Health Act of 1977 (Mine Act) (30 USC §§ 801 *et seq.*; 30 CFR Parts 1 to 199)

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### Who is Covered

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The Federal Mine Safety and Health Act (Mine Act) covers all mine operators and miners throughout the United States, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands. Under the Mine Act, a mine “operator” is defined as: “any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing service or construction at such mine.” A “miner” is any individual working in a coal or other mine. At this time, the Mine Act covers approximately 300,000 miners and almost 14,000 mines.

### Basic Provisions/Requirements

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The Mine Act requires that the Mine Safety and Health Administration (MSHA) inspect all mines each year. All underground mines are to receive at least four inspections annually; all surface operations are to be inspected at least twice annually. MSHA is specifically prohibited from giving advance notice of an inspection, and it is specifically authorized to enter mine property without a warrant.

The Mine Act requires or authorizes additional inspections and investigations to ensure safe and healthy work environments for miners. For example, mines that release large amounts of methane gas are to receive more frequent inspections; mines determined to be exceptionally hazardous may receive more frequent inspections. Additionally, MSHA must investigate all fatal accidents and miners’ complaints of discrimination based upon the exercise of their rights under the Mine Act.

To promote compliance with the provisions of the Act and its safety and health standards, all violations found during inspections and investigations must be cited. All violations are subject to civil penalties, and all violations must be corrected within the time frames established by MSHA.

The Mine Act permits representatives of the operator and the miners to accompany MSHA during inspections and participate in pre- and post-inspection conferences. If violations are cited, the circumstances surrounding the violations are discussed during post-inspection conferences.

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If these discussions do not result in resolution, the mine operator may appeal the citation and the penalty to the Federal Mine Safety and Health Review Commission, an independent body, with further appeal to the U.S. Courts of Appeals.

In addition to setting safety and health standards for preventing hazardous and unhealthy conditions, MSHA's regulations establish requirements for immediate notification of accidents, injuries, and illnesses; for training programs that meet the statutory requirements of the Mine Act; and for obtaining approval for certain equipment used in gassy underground mines.

Mine operators must notify MSHA when they open or close a mine, and they may request the modification of an existing safety standard on a site-by-site basis. Under the Mine Act, MSHA may approve modifications only if it determines that the alternate method proposed will guarantee no less than the same measure of protection afforded by the existing standards, or that the application of MSHA's standard at the mine will result in a diminution of safety for miners.

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## Employee Rights

A good safety and health program depends on the active participation and interest of everyone at a worksite. Because Congress wants to encourage an active, responsible role for all parties in matters of mine safety and health, the Federal Mine Safety and Health Act of 1977 gives individual miners, their representatives, and job applicants many rights. Deaths, injuries, and illnesses in the workplace can be decreased if all parties take advantage of these rights.

The Act gives miners the rights to:

- Designate a representative to accompany federal inspectors during inspections at a mine;
- Obtain an inspection of the mine where reasonable grounds exist to believe that an imminent danger, or a violation of the Act or of a safety or health standard exists;
- Receive health and safety training;
- Be paid during certain periods of time when a mine or part of a mine has been closed because of a withdrawal order;
- Be protected against discrimination based on the exercise of rights under the Act; and
- Be informed of, and participate in, enforcement and legal proceedings under the Act.

Miners' representatives also have specific rights under the Act in addition to those rights given to individual miners. Moreover, applicants for mine work have the right not to be discriminated against in hiring because they have previously exercised rights provided under the Act.

If a miner, representative of miners, or job applicant, has general or specific questions about rights under the Act, he or she should contact the nearest MSHA office. The MSHA Web site ([www.msha.gov](http://www.msha.gov)) lists locations and telephone numbers for its offices nationwide.

## Compliance Assistance Available

MSHA develops safety and health training programs in cooperation with industry and labor, tests new mining equipment, works with other agencies to advance safety and health research programs, and compiles and analyzes accident, injury, and illness data to better address serious workplace hazards.

MSHA has developed booklets, pamphlets, and pocket-size laminated cards, which address known safety and health hazards and identify acceptable compliance processes. MSHA routinely distributes its accident prevention materials to the mining industry at large, or to those sectors of the industry that are experiencing the injuries addressed by the materials.

MSHA's Web site ([www.msha.gov](http://www.msha.gov)) contains compliance assistance information, guidance, and helpful tips for the mining community. For example, it lists upcoming seminars designed for mine operators and others to receive the latest information about the requirements of a rule or to hear about solutions to various safety and health problems.

Also, the Web site provides model forms, records, and plans for the mine operator to use to comply with MSHA requirements, thus avoiding the need for the operator to create these items independently. Through the Web site, mine operators may file various reports directly with MSHA.


MSHA's Small Mine Office (SMO) ([www.msha.gov/smallmineoffice/smallmineoffice.htm](http://www.msha.gov/smallmineoffice/smallmineoffice.htm)) works closely, on-site, with mine operators having 5 or fewer employees to develop and implement health and safety programs tailored to identify and eliminate hazards at their operations. The wide variety of health and safety services offered include a worksite analysis of safety and health conditions, assistance in developing a written health and safety program, and safety and health toolbox talks for training employees.

The Alliance Program ([www.msha.gov/alliances/alliances.htm](http://www.msha.gov/alliances/alliances.htm)) enables trade associations or professional societies, labor organizations, educational institutions, and other similar stakeholders that share an interest in miner safety and health to collaborate with MSHA to prevent injuries and illnesses in the nation's mines. MSHA and the organizations sign a voluntary agreement with goals that address training and education, outreach and communication, technical assistance, and promote national dialogue on mine safety and health.

The Mine Act authorizes a state grants program, funded at about \$7.6 million annually, which MSHA administers. MSHA works with the states to stimulate the development of individual state programs that focus on identifiable safety and health problems. Many of the states use the grants for education and training, particularly for smaller mining operations that cannot provide updated, effective training.

MSHA's Mine Health and Safety Academy, located in Beckley, West Virginia, develops and provides safety and health training courses for its own inspectors as well as for industry and labor. A "Mine Simulation Laboratory," located on the Academy grounds, provides hands-on training in rescue and recovery operations for certain mine emergencies.

MSHA's Approval and Certification Center (A&CC), located near Wheeling, West Virginia, houses laboratories, equipment, and personnel to test equipment that must be approved before it can be used in certain areas of gassy underground mines. The A&CC also is responsible for monitoring the performance of approved products to ensure that they meet the standards under which they were originally approved.



A variety of information on MSHA's programs, as well as its existing and proposed standards, can be found on MSHA's Web site ([www.msha.gov](http://www.msha.gov)). Also, MSHA has a number of *e*laws Advisors ([www.dol.gov/elaws/mining.html](http://www.dol.gov/elaws/mining.html)) that provide assistance in understanding and applying MSHA's regulations.

MSHA maintains a 24-hour toll-free telephone number that can be used to report accidents. That number is 1-800-746-1553. MSHA maintains another toll-free number to report hazardous conditions. That number is 1-800-746-1554, and the caller need not identify himself or herself. The appropriate MSHA district office ([www.msha.gov/district/disthome.htm](http://www.msha.gov/district/disthome.htm)) also can be contacted.

Additional information about MSHA, its programs and policies may be obtained from the MSHA Office of Information, Room 601, 4015 Wilson Boulevard, Arlington, Virginia, 22203-1984. The telephone number is 202-693-9422.

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## Penalties/Sanctions

The Mine Act established a maximum penalty of \$10,000 per violation against mine operators for violations found and cited. As a result of the Omnibus Budget Reconciliation Act of 1990, the maximum was increased to \$55,000.

Non-serious violations (violations that are not designated "significant and substantial") that are promptly corrected normally receive a "single penalty" assessment of \$55. More serious violations and non-serious violations that are not promptly corrected are usually assessed using a formula that incorporates six criteria specified for determining penalty amounts by the Mine Act.

Some violations are of such a nature or seriousness that use of the formula would not result in an appropriate penalty. In these cases—most often involving fatalities, serious injuries, and unwarranted failure to comply with standards—MSHA may waive the formula and propose a "special assessment." In developing such an amount, the facts are independently reviewed to determine a penalty amount that will have the deterrent effect contemplated by the Statute. Title 30, Part 100 of the Code of Federal Regulations contains the regulations governing the civil penalty process.

The Mine Act also provides for either civil penalties against individuals for "knowing" violations, or criminal sanctions against mine operators who "willfully" violate safety and health standards. MSHA reviews particular citations and orders for possible knowing or willful violations. In general, the violations reviewed include those involving imminently dangerous situations and a high degree of negligence or reckless disregard. MSHA initiates and conducts investigations of possible knowing or willful violations. If evidence of willful violations is found, the case is referred to the Department of Justice.

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## Relation to State, Local, and Other Federal Laws

The Mine Act does not give MSHA the authority to cede its responsibilities to states or any other political subdivisions. The Mine Act does not preempt state mine safety and health laws, except insofar as they may conflict with the Mine Act or MSHA's regulations. States may have more stringent health and safety standards.